



Billing Code: 5001-06

DEPARTMENT OF DEFENSE

Office of the Secretary

Science and Technology Reinvention Laboratory (STRL) Personnel Management

Demonstration Projects

AGENCY: Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD (CPP)), Department of Defense (DoD).

ACTION: Notice of amendment to demonstration project plans.

SUMMARY: Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, as amended by section 1009 of the NDAA for FY 2000, and section 1114 of the NDAA for FY 2001, authorizes the Secretary of Defense to conduct personnel demonstration projects at DoD laboratories designated as STRLs. This amendment adds waivers to current STRL *Federal Register Notices* (FRN) for the Army Research Laboratory (ARL); the Army Aviation and Missile Research, Development, and Engineering Center (AMRDEC); the Army Engineer Research and Development Center (ERDC); the Army Medical Research and Materiel Command (MRMC); the Army Communications-Electronics Research, Development, and Engineering Center (CERDEC); and the Naval Research Laboratory (NRL), to facilitate the use of flexibilities in their project plans by permitting terminations during extended probationary periods. On November 20, 2012, the proposed amendment was published for a 30-day comment period. No comments were received on or before December 20, 2012. This notice provides the final amendment to the demonstration project plans.

DATES: This amendment may be implemented beginning on the date of publication.

FOR FURTHER INFORMATION CONTACT:

Department of Defense:

Mr. William T. Cole, Defense Civilian Personnel Advisory Service, Non-Traditional Personnel Programs (DCPAS–NTPP), Suite 05L28, 4800 Mark Center Drive, Alexandria, VA 22350-1100; email: william.cole@cpms.osd.mil.

Department of the Army:

- ARL: Program Manager, ARL Personnel Demonstration Project, AMSRD-ARL-O-HR, 2800 Powder Mill Road, Adelphi, MD 20793-1197;
- AMRDEC: Special Assistant for Laboratory Management, AMRDEC, 5400 Fowler Road, Redstone Arsenal, AL 35898-5000;
- ERDC: Personnel Demonstration Project Manager, U.S. Army Engineer Research and Development Center, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199;
- MRMC: Director, Civilian Personnel Advisory Center, Medical Research and Materiel Command, 1541 Porter Street, Fort Detrick, MD 21702-5000;
- CERDEC: CERDEC Personnel Demonstration Project Administrator, C4ISR Campus Building 6002, Room D3120, ATTN: RDER-DOS-ER, Aberdeen Proving Ground, MD 21005.

Department of the Navy:

- NRL: Director, Strategic Workforce Planning, Naval Research Laboratory, 4555 Overlook Avenue SW, Washington, DC 20375-5320.

SUPPLEMENTARY INFORMATION:

A. Background

The conventional 1-year probationary period does not allow supervisors an adequate period of time to fully evaluate the contribution and conduct of newly hired personnel. STRLs have included flexibilities allowing up to a 3 year probationary period. These flexibilities were fully utilized until the United States Court of Appeals for the Federal Circuit decided two cases, *Van Wersch v. Department of Health & Human Services*, 197 F.3d 1144 (Fed. Cir. 1999), and *McCormick v. Department of the Air Force*, 307 F.3d 1339 (Fed. Cir. 2002), which affected the STRL's ability to fully utilize their extended probationary periods.

B. Modifications

The following FRNs are amended under the authority of section 1114 of the NDAA for Fiscal Year 2001:

1. **ARL** (63 FR 10680-10711, March 4, 1998)

a. Add the following to section **IX. Required Waivers to Law and Regulation, A. Waivers to Title 5, U. S. Code**: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation, B. Waivers to Title 5, Code of Federal Regulations**: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

2. **AMRDEC** (62 FR 34876-34903, June 27, 1997)

a. Add the following to section **IX. Required Waivers to Law and Regulation, 1. Title 5, U.S. Code**: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation, 2. Title 5, Code of Federal Regulations**: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

3. **ERDC** (63 FR 14580-14599, March 25, 1998)

- a. Add the following to section **IX. Required Waivers to Law and Regulation, A.**

Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

- b. Add the following to section **IX. Required Waivers to Law and Regulation, B.**

Waivers to Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

4. **MRMC** (63 FR 10440-10462, March 3, 1998)

- a. Add the following to section **IX. Required Waivers to Law and Regulation, 1.**

Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation, 2.** *Title 5, Code of Federal Regulations:* “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for

those individuals serving a probationary period under an initial appointment except those with veterans' preference.”

5. **CERDEC** (66 FR 54872-54899, October 30, 2001)

a. Add the following to section **IX. Required Waivers to Law and Regulation, A.**

Waivers to Title 5, U.S. Code: “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans' preference.”

b. Add the following to section **IX. Required Waivers to Law and Regulation, B.**

Waivers to Title 5, Code of Federal Regulations: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans' preference.”

6. **NRL** (64 FR 33970-34046, June 24, 1999)

a. Add the following as the final box on the left side of **Appendix A: Required Waivers to Law and Regulation** chart, *Title 5, U. S. Code:* “Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans' preference.”

b. Add the following on the right side of the information entered in 6.a. above to **Appendix A: Required Waivers to Law and Regulation** chart, *Title 5, Code of Federal Regulations*: “Part 752, sections 752.201, and 752.401: Coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

Dated: May 15, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

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